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SUPERIOR COURT  
YAVAPAI COUNTY, ARIZONA

2011 JAN -6 PM 4:06

JEANNE HICKS, CLERK

BY: BOBBI JO BALL

IN THE SUPERIOR COURT

STATE OF ARIZONA, COUNTY OF YAVAPAI

STATE OF ARIZONA,

V1300CR201080049

Plaintiff,

**STATE'S RESPONSE TO DEFENDANT'S  
MOTION IN LIMINE RE: EXCLUDING  
VICTIM IMPACT TESTIMONY**

vs.

JAMES ARTHUR RAY,

**(The Honorable Warren Darrow)**

Defendant.

The State of Arizona, through undersigned counsel, hereby responds to Defendant's Motion in Limine Re: Excluding Victim Impact Testimony in the following Memorandum of Points and Authorities.

**MEMORANDUM OF POINTS AND AUTHORITIES**

The State does not intend to present any victim impact testimony in its case-in-chief. The State does intend to call as witnesses a representative from each victim's family to establish relevant information regarding the deceased and identify each victim for the jury. This testimony will establish the victims' age, health, mental state and the victims' relationship/history with Defendant. All of these facts are relevant to identify each victim, complete the story and to aid the jury in understanding why the victims remained in the sweat lodge.

While the State will not elicit victim impact testimony at trial, the victims have a constitutional right to be heard at sentencing and "to present any information or opinions that concern the victim or the victim's family, including the impact of the crime on the victim, the harm caused by the crime, the criminal offense, the defendant, the need for restitution or the

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1 sentence to be imposed." Ariz. Const. art. II, § 2.1; A.R.S. § 13-4426. Should Defendant be  
2 convicted at trial, all of the victims' families intend to exercise this right at Defendant's  
3 sentencing.

4 RESPECTFULLY submitted this 6<sup>th</sup> day of January, 2011.

7 By Sheila Sullivan Polk  
8 SHEILA SULLIVAN POLK  
9 YAVAPAI COUNTY ATTORNEY

10 **COPIES** of the foregoing emailed this 1<sup>st</sup> day of January, 2011:

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17 By: Kathy Durrer  
18

**COPIES** of the foregoing delivered this 6<sup>th</sup> day of January, 2011, to

Thomas Kelly  
Via courthouse mailbox

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By: Kathy Durrer